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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
09/669,042	09/25/2000	Christoph Widmer	32992	2828	
116	7590 09/06/2006		EXAMINER		
PEARNE & GORDON LLP 1801 EAST 9TH STREET			MEI, XU		
SUITE 1200		ART UNIT	PAPER NUMBER		
CLEVELANI	CLEVELAND, OH 44114-3108			2615	
			DATE MAIL ED: 00/06/2006		

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)			
	09/669,042	WIDMER ET AL.			
Office Action Summary	Examiner	Art Unit			
	Xu Mei	2615			
The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply					
A SHORTENED STATUTORY PERIOD FOR REPLY WHICHEVER IS LONGER, FROM THE MAILING DA - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period w - Failure to reply within the set or extended period for reply will, by statute, Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION 36(a). In no event, however, may a reply be time vill apply and will expire SIX (6) MONTHS from cause the application to become ABANDONE!	I. ely filed the mailing date of this communication. O (35 U.S.C. § 133).			
Status					
 Responsive to communication(s) filed on 15 Min This action is FINAL. Since this application is in condition for allowart closed in accordance with the practice under Endower 	action is non-final. nce except for formal matters, pro				
Disposition of Claims					
4)⊠ Claim(s) <u>2-8 and 10-20</u> is/are pending in the ap 4a) Of the above claim(s) is/are withdraw 5)□ Claim(s) is/are allowed. 6)□ Claim(s) is/are rejected. 7)□ Claim(s) is/are objected to. 8)⊠ Claim(s) <u>2-8, 10-20</u> are subject to restriction ar	vn from consideration.				
Application Papers					
9) The specification is objected to by the Examine 10) The drawing(s) filed on is/are: a) acce Applicant may not request that any objection to the of Replacement drawing sheet(s) including the correct 11) The oath or declaration is objected to by the Ex	epted or b) objected to by the Eddrawing(s) be held in abeyance. See ion is required if the drawing(s) is obj	e 37 CFR 1.85(a). ected to. See 37 CFR 1.121(d).			
Priority under 35 U.S.C. § 119					
 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 					
Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Professor's Retest Province Review (RTO 048)	4) ☐ Interview Summary Paper No(s)/Mail Da	(PTO-413)			
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date		ate satent Application (PTO-152)			

DETAILED ACTION

1. This communication is responsive to applicant's amendment filed 05/15/2006.

Election/Restriction

- 2. Restriction to one of the following inventions is required under 35 U.S.C. 121: This application contains claims directed to the following patentably distinct species of the claimed invention:
 - Claims 2-8, 10-15, drawn to specific structures/structural elements (a channel being formed on the outer surface) of a hearing aid; classified in 381/322;
 - II. Claims 16-20, drawn to an outside-the-ear hearing device that specifically having an acoustically sealed acoustic lead between an opening and a transducer output; classified in 381/326.
- 3. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II. Restriction for examination purposes as indicated is proper.
- 4. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claim is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Xu Mei whose telephone number is 571-272-7523. The examiner can normally be reached on Monday-Friday (9:30-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Xu Mei

Primary Examiner Art Unit 2615 09/01/2006